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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

SUSAN ENGEL, an individual;

Plaintiff,

v.

WARM SPRING ROAD CVS, L.L.C., a Nevada
limited liability company; CVS PHARMACY,
INC., a Delaware corporation; DOES I-V; and
ROE CORPORATIONS I-V, inclusive,

Defendants.

Case No.: 2:23-cv-01652-JCM-BNW

**DISCOVERY PLAN AND SCHEDULING
ORDER**

Pursuant to Local Rule 26-1(e), the parties submit their proposed Discovery Plan and Scheduling Order. Deadlines that fall on a Saturday, Sunday, or legal holiday have been scheduled for the next judicial day.

1. **Meeting:** Pursuant to FRCP Rule 26(f), a meeting was held on November 9, 2023, and was attended telephonically by Joshua Benson, Esq. of BENSON ALLRED INJURY LAW for Plaintiff and Marjorie Kratsas, Esq. of MESSNER REEVES LLP for Defendants.

2. **Pre-Discovery Disclosures:** Pursuant to FRCP Rule 26(a)(1), the parties will make their pre-discovery disclosures, including but not limited to any Computation(s) of Damages required pursuant to FRCP 26(a)(i)(A)(iii), by November 27, 2023.

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1 3. **Areas of Discovery:** The parties agree that the areas of discovery should include,
2 but not be limited to: all claims and defenses allowed pursuant to the Federal Rules of Civil
3 Procedure.

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5 4. **Discovery Plan:** The parties propose the following discovery plan:

6 **Discovery Cut-off Date(s):** Defendant Warm Springs Road, CVS L.L.C. first
7 appeared in this matter by filing a petition for removal on October 11, 2023. LR 26-1(b)(1)
8 provides that “unless otherwise ordered, discovery periods longer than one hundred eighty
9 (180) days from the date the first defendant answers or appears will require special scheduling
10 review.” The parties agree there is a need for special review. The parties still need to retrieve
11 additional treatment records. Additionally, Plaintiff lives out of state, which will make
12 scheduling depositions and independent medical exams difficult. Therefore, the parties agree
13 that discovery must be commenced and completed no later than November 11, 2024.

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16 A. **Amending the Pleadings and Adding Parties:**

17 The parties shall have until August 13, 2024, to file any motions to amend the pleadings
18 to add parties. This is 90 days before the discovery cut-off date.

19 B. **FRCP 26(a)(2) Disclosure of Experts:**

20 Disclosure of experts shall proceed according to FRCP Rule 26(a)(2) and LR 26-
21 1(e)(3) as follows: the disclosure of experts and their reports shall occur on or before
22 September 12, 2024. The disclosure of rebuttal experts and their reports shall occur on or
23 before October 15, 2024. The expert disclosure deadline is 60 days before the discovery cut-off
24 date and the rebuttal expert disclosure deadline is 30 days after the initial expert disclosure
25 deadline.
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1 C. **Dispositive Motions:**

2 The parties shall have until December 11, 2024, to file dispositive motions. This is 30
3 days after the discovery cut-off date, as required by LR 26-1(e)(4).
4

5 D. **Pre-Trial Order:**

6 The parties will prepare a Consolidated Pre-Trial Order on or before January 10, 2025,
7 which is not more than 30 days after the date set for filing dispositive motions in the case, as
8 required by LR 26-1(e)(5). This deadline will be suspended if dispositive motions are timely
9 filed until 30 days after the decision of the dispositive motions or until further order of the
10 Court. The disclosure required by FRCP Rule 26(a)(3), and objections thereto, shall be
11 included in the pre-trial order.
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13 E. **Court Conferences:** If the Court has questions regarding the dates
14 proposed by the parties, the parties request a conference with the Court before entry of the
15 Scheduling Order. If the Court does not have questions, the parties do not request a conference
16 with the Court.
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18 F. **Authorizations:** Plaintiff will execute the authorizations provided by
19 Defendant.
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21 G. **Format of Discovery:** Pursuant to the electronic discovery amendments
22 to the Federal Rules of Civil Procedure effective December 1, 2006, the parties addressed the e-
23 discovery issues pertaining to the format of discovery at the Rule 26(f) conference. The parties
24 do not anticipate discovery of native files or metadata at this time, but each party reserves the
25 right to make a showing for the need of such electronic data as discovery progresses.

26 H. **Alternative Dispute Resolution:** The parties certify that they have met and
27 conferred about the possibility of using alternative dispute-resolution processes including
28 mediation, arbitration, and if applicable, early neutral evaluation.

1 I. **Alternative Forms of Case Disposition:** The parties certify that they
2 considered consent to trial by a magistrate judge under 28 U.S.C. section 636(c) and Fed. R.
3 Civ. P. 73 and the use of the short trial program (General Order 2013-01). The parties do not
4 consent to trial by magistrate judge or use of the short trial program.

5 J. **Electronic Evidence:** The parties certify that they discussed whether they
6 intend to present evidence in electronic format to jurors for the purposes of jury deliberations.
7 The parties have not reached any stipulations in this regard at this time.

8 K. **FRCP 35 Examination:** Defendant reserves the right to have Plaintiff
9 undergo an FRCP 35 Examination performed by Defendant's doctor(s), to be determined if
10 Plaintiff pursues future damages. Said independent medical examination is allowed pursuant to
11 the Federal Rules of Civil Procedure and without waiving all objections thereto by either party.
12

13 DATED: November 28, 2023.

14 /s/ Joshua Benson

15 Joshua L. Benson, Esq.
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19 Las Vegas, Nevada 89149
20 *Attorneys for Plaintiff*

/s/ Marjorie Kratsas

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CVS, L.L.C. dba CVS Pharmacy, Inc.*

21 **IT IS SO ORDERED:**

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23 UNITED STATES MAGISTRATE JUDGE

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25 DATED: 11/29/2023
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